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8 In the Matter of:) NOTICE AND
9) INVITATION TO
10 YUMA COUNTY LOCAL RULES) COMMENT
11 OF PRACTICE SUPERIOR COURT,)
12 RULES 2(B), 3, 10(A) AND 13,)
13 _____)

14 Pursuant to Rule 28.1, Rules of the Supreme Court of Arizona, the Yuma County
15 Presiding Judge will request the Arizona Supreme Court to approve the attached proposed
16 amendments to Rules 2(B), 3, 10(A) and 13 of the Yuma County Local Rules of Practice
17 Superior Court.

18 In August 2016, Presiding Judge Maria Elena Cruz established the Yuma County Civil
19 Rules Committee, chaired by Judge Lawrence C. Kenworthy, to among other things, review the
20 Local Rules of Yuma County so they conform to recent Arizona Civil Rule changes. These
21 proposed rule changes arise from the Committee's recommendations. **Each proposed change**
22 **has been approved by the Yuma County Superior Court Bench.**

23 Rule 2 (B). Yuma Local Rule 2(b) provides that a party shall serve upon the assigned
24 judge a copy of any motion filed with the court. Ariz. R. Civ. Proc. 7.1(a) permits the filing of a
25 motion when a party applies for an order. The rule also allows for a party to file an answering
26 memorandum and a memorandum in reply. Various other Arizona Rules of Civil Procedure
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1 allow for the filing of a Petition or an Application where an order is requested from the court,
2 (see eg. Rules 16.2(a), 24(b), 38.1(c) and 65(d)) along with a response by a party opposing the
3 request for an order.
4

5 All too often, a party fails to serve a copy of the motion, application, answering
6 memorandum, etc. upon the judge assigned to the case. This may be partly due to some Arizona
7 counties having local superior court rules that require e-filing. This sometimes requires an
8 assigned judge to enter an order addressing this issue. It is necessary to amend Local Rule 2(B)
9 to require all papers, both requesting and opposing an order, be served upon the assigned judge.
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11 A review of Maricopa County Local Rule 3.1(e)(2) reflects particular language, that with
12 a slight modification, would remedy the deficiency in Yuma County Local Rule 2(B).

13 Further, the Yuma County Superior Court is expected in late October-early November,
14 2017, to transition to E-Filing ie. electronic filing of papers with the court, in civil cases first and
15 then later to other types of cases eg. probate, etc. An amendment to the Yuma County Local
16 Rules is necessary to reflect this transition to E-filing.
17

18 The language in the proposed Yuma County Local Rule 2(B) will address these issues,
19 and is detailed in Exhibit A.
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21 Rule 3. Yuma Local Rule 3 requires the Clerk of Court to provide a copy of all minute
22 entries to the parties. Arizona Rule of Family Law Procedure 81.A requires the Clerk to
23 distribute all minute entries and all judgments to the parties.

24 The Yuma Local Rule should be amended so it is consistent with a statewide rule and the
25 past practice of the Yuma Clerk, which included distribution of orders and judgments, along with
26 minute entries;
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1 Second, in the past the Yuma Clerk of Court followed a standard procedure where it
2 certified the clerk's distribution of orders, notices and other documents to parties and counsel,
3 only if the certificate language and form met very precise requirements. Unless a party's
4 proposed certificate of service met these precise requirements, the Clerk would not sign the
5 proposed certificate. This practice should continue.

7 The language in the proposed Yuma County Local Rule 3, together with the precise
8 certificate form, is detailed in Exhibit B.

9 Rule 10(A). Yuma Local Rule 10(A) provides that all cases, where the amount in
10 controversy does not exceed \$50,000.00, shall be subject to Rules 72 to 77 Ariz. R.Civ.Proc.
11 (Mandatory Arbitration Rules).

13 Over the years, numerous difficulties have developed in implementing the Mandatory
14 Arbitration Rules in Yuma County. Additionally, the reasons for sending cases to mandatory
15 arbitration and the benefits expected from arbitrating lower value cases have not occurred at the
16 levels originally anticipated.

18 The Committee, with input from members of the Office of the Yuma Clerk of Court, the
19 local Yuma County Bar, and Honorable Charles Harrington, Pima County Superior Court Judge
20 have determined that a substantial portion of the cases with an amount in controversy less than
21 \$50,000.00 would be processed more smoothly and expeditiously if Yuma County adopted a
22 pilot program similar to the Fast Track Trial/ADR Arbitration Alternative program being
23 adopted and tested in Pima County (latest version Rules 101-121). The language in the
24 proposed Local Rule 10 is detailed in Exhibit C.

26 Rule 13. Local Rule 13 provides that a party desiring to have a civil case set for trial
27 shall file a Motion to Set and Certificate of Readiness. This procedure was consistent with
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1 Ariz.R.Civ.Proc. 38, as promulgated prior to 2014. Effective April 15, 2014, Ariz.R.Civ.Proc.
2 Rule 38 and Rule 16 were substantially changed so that civil trials are now set by filing a Joint
3 Report and proposed Scheduling Order, holding a Scheduling Conference, or holding a
4 Comprehensive Pretrial Conference.
5

6 Yuma Local Rule 13 is inconsistent with the recent changes to Arizona Civil Procedure
7 Rule 16 and Rule 38. The committee proposes abrogating Yuma Local Rule 13, so that all civil
8 trials be set pursuant to Ariz. R. Civ. Proc. 16.
9

10 The proposed abrogation is detailed in Exhibit D.

11 The Yuma County Superior Court now invites the public to comment on the proposed
12 rules, and comments may be made by following to the comments page. The comment period ends
13 at noon, November 9, 2017. Once the comment period has ended, this Court will submit a request
14 for approval with the Supreme Court Clerk. Per Arizona Supreme Court Rule 28.1(f), this Court
15 must submit comments it receives with its request for approval.
16

17 I invite you to review the proposed rule(s), and if you have specific comments follow the
18 instructions on the comment submission screen so you may convey your thoughts. Please note
19 we cannot accept anonymous comments and will require contact information so that we may
20 follow up on comments which may require further explanation.
21

22 Once the request for approval and attendant documents have been submitted to the
23 Supreme Court, that court may enter an order opening a 60 day time period for public comment
24 on their website. Rule 28.1(g). At the expiration of the comment period, the Supreme Court will
25 consider our request.
26

27 Thank you
28 David M. Haws
Presiding Judge, Yuma County Superior Court

Electronic copy filed with the
Clerk of the Supreme Court of
Arizona this _____ day of
January, 2018.

Exhibit A

(1) E-filing: All documents shall be electronically filed to the extent required by Supreme Court Rule or Administrative Order

(2) Paper filing: Copies of all documents properly filed in paper form shall be provided to all parties (excepting proper ex parte filings). A copy of any filed document that requests action or a ruling from a judge to grant or deny relief, shall also be provided to the assigned judge, except case initiation documents in civil, informal probate and domestic cases.

Exhibit B

Rule 3. Notations of Orders

A. **Notice of Minute Entries.** The Clerk of the Superior Court shall provide copies of every minute entry to the parties who have appeared in the case.

B. **Distribution to Court Drop Box.** At any time as the Clerk of the Superior Court may distribute minute orders, notices of the entry of judgment, and/or any other document to an attorney's court drop box, such distribution shall have the same effect as that of distribution by United States mail.

C. **Proposed Forms of Order.** Parties submitting a proposed or stipulated form of judgment or order pursuant to any applicable rule of procedure shall include a form of mailing certificate for execution by the Clerk of the Superior Court in accordance with Appendix H¹ and naming the persons to whom the executed order is to be distributed immediately following the space provided for the signature of the judicial officer. The parties shall submit the proposed or stipulated form of order and will also include with it copies to be conformed which shall be either noted for deposit into the Courthouse mailboxes of counsel who maintain such a mailbox or together with envelopes stamped and addressed to each party who has entered an appearance in the case. Upon entry of the order, the Clerk of the Superior Court shall conform the copies provided and distribute them pursuant to the mailing certificate and shall execute the mailing certificate on the original order prior to filing it. This procedure shall fully satisfy the requirement for entry of a minute entry or notice of the entry of a judgment or order by the Clerk of the Superior Court.

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¹ The name of the current Clerk of Court shall be inserted in place of ****.

Appendix H:

Copy of the forgoing Order mailed/delivered this

_____ day of _____, _____, to:

****, CLERK OF THE SUPERIOR COURT

BY: _____, Deputy Clerk.

Exhibit C

Rule 10. Arbitration

A. Amount in Controversy. All civil cases filed with the Clerk of the Court in which the Court finds or the parties agree that the amount in controversy does not exceed ~~\$50,000~~ \$1,000.00, except those specifically excluded by Rules 72-77, A.R.C.P., shall be subject to the provisions of A.R.S. § 12-133 and Rules 72 to 77.

Exhibit D

Rule 13.

Abrogated _____, effective _____.